

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
v.	)	Criminal Action No. 06-69-GMS
	)	
LIONEL BELL	)	
	)	
Defendant.	)	

**GOVERNMENT'S SENTENCING MEMORANDUM ON THE APPLICATION OF 18  
U.S.C. § 924(e)**

**NOW COMES** the United States of America, by and through its undersigned attorneys, and hereby responds to Defendant's Argument in Opposition to the Application At Sentencing of 18 U.S.C. § 924(e), and respectfully requests that this Court apply the Armed Career Criminal Act to the defendant's sentence.

**STATEMENT OF FACTS**

On June 15, 2006, the federal Grand Jury for the District of Delaware returned a one-count Indictment, charging the defendant, Lionel Bell, with being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1). On December 8, 2006, the defendant entered a guilty plea to Count One of the Indictment. Under the plea agreement, the defendant reserved his right to challenge the applicability of the Armed Career Criminal Act (ACCA), 18 U.S.C. § 924(e), at sentencing. The defendant's relevant criminal history is as follows:

On April 22, 2002, a Delaware Grand Jury returned an eighteen-count Indictment, charging the defendant with, among other things, three felony counts of Burglary in the Third Degree, in

violation of Title 22, Section 824 of the Delaware Code. *See* Burglary Indictment, Gov't Ex. 2. On May 25, 2002, the defendant pleaded guilty in the Superior Court of the State of Delaware in and for New Castle County, to three Burglary counts. *See* Burglary Plea Agreement, Gov't Ex. 3; Burglary Plea Colloquy, Gov't Ex. 4. The Indictment for the first count admitted by the defendant (Count III of the state Indictment) charges that, on February 12, 2002, the defendant "did knowingly enter or remain unlawfully in a building located at 1801 N. Broom Street, Wilmington Delaware, with the intent to commit the crime of Theft therein." Gov't Ex. 2. The second count (Count VII of the state Indictment) charges that on February 20, 2002, the defendant "did knowingly enter or remain unlawfully in a building located at 1801 W. 14th Street, Wilmington Delaware, with the intent to commit the crime of Theft therein." *Id.* The third count (Count XII of the state Indictment) charges that on February 20, 2002, the defendant "did knowingly enter or remain unlawfully in a building located at 618 Union Street, Wilmington Delaware, with the intent to commit the crime of Theft therein." *Id.* The defendant was sentenced concurrently on each count to two years of incarceration, but this sentence was suspended immediately for six months of work release at supervision Level 4, to be followed by eighteen months of probation at supervision Level 3. *See* Burglary Sentence and Judgment, Gov't Ex. 5.

On March 2, 2004, the defendant pleaded guilty in the Superior Court of the State of Delaware in and for New Castle County, to Assault First Degree, in violation of Title 11, 613 of the Delaware Code, and to Possession of a Firearm during the Commission of a Felony, in violation of Title 11, Section 1447A of the Delaware Code. *See* Assault Plea Agreement, Gov't Ex. 7. The assault count of the Indictment charged that, on May 23, 2003, the defendant "did recklessly engage in conduct which created a substantial risk of death to Joseph Toner, by, *inter alia*, struggling with

him while in possession of a loaded firearm, which conduct caused serious physical injury to Joseph Turner.” See Assault Indictment, Gov’t Ex. 6. The defendant was sentenced concurrently on each count to five years of incarceration, which was suspended after serving two years of this term for an additional year on probation at supervision Level 3. See Assault Sentence and Judgment, Gov’t Ex. 8.

### **ARGUMENT**

The defendant appropriately concedes that his conviction for Assault First Degree is a “violent felony” under the ACCA, but disputes that his three convictions for Burglary Third Degree so qualify. Defendant Br. at 2. The Government submits that, considering the Indictment, plea agreement, plea colloquy and certified record of conviction, this Court should find that the defendant’s burglary convictions are “violent felonies” under the ACCA, and therefore, sentence him as an armed career criminal under the Act.

#### **A. *Background on the ACCA***

The Armed Career Criminal Act (ACCA), 18 U.S.C. § 924(e), provides that a defendant convicted of possession of a firearm by a convicted felon, in violation of 18 U.S.C. § 922(g), is subject to a mandatory sentence of 15 years of imprisonment if the defendant has three prior convictions “for a violent felony or a serious drug offense.” The ACCA, in turn, defines a “violent felony” as “any crime punishable by imprisonment for a term exceeding one year . . . that (I) has as an element the use, attempted use, or threatened use of physical force against the person of another;

or (ii) is burglary, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another.” 18 U.S.C. § 924(2)(B).<sup>1</sup>

The ACCA, however, does not further define the term “burglary.” In *Taylor v. United States*, 495 U.S. 575 (1990), the Supreme Court adopted the “generic, contemporary meaning of burglary,” which “contains at least the following elements: an unlawful or unprivileged entry into, or remaining in, a building or other structure, with intent to commit a crime.” *Id.* at 598.

In addition, *Taylor* adopted the “categorical approach” to determining whether a prior burglary conviction falls within this definition. Under the categorical approach, a sentencing court may look to the fact of conviction and the statutory definition of the offense, and may consider the indictment or information, jury instructions, plea agreement, plea colloquy, or certified records of conviction to show that each of the elements of generic burglary were necessarily found by virtue of the elements of the offense, the facts found by the factfinder, or admissions by the defendant. *See Shepard v. United States*, 544 U.S. 13, 20-21 (2005) (holding that in cases resolved by guilty plea, the sentencing court may also consider the “statement of factual basis for the charge, shown by a transcript of plea colloquy or by written plea agreement presented to the court, or by a record of comparable findings of fact adopted by the defendant upon entering the plea”); *United States v. Bennett*, 100 F.3d 1105, 1110 (3d Cir. 1996) (finding that all the elements of generic burglary were satisfied, where defense counsel admitted in a letter to Bennett’s probation officer, and during his federal sentencing, that Bennett’s convictions involved a removal of a window from a Fotomat booth

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<sup>1</sup>The United States Sentencing Guidelines Section 4B1.4 incorporates Section 924(e), by providing that “[a] defendant who is subject to an enhanced sentence under the provisions of 18 U.S.C. § 924(e) is an armed career criminal,” and by specifying a corresponding offense level and criminal history category.

and the theft of film, a burglary from a variety store, and a throwing of a brick through a bakery window.). The categorical approach, however, limits the ability of a sentencing court to consider other extrinsic evidence outside of these enumerated sources to determine whether the prior conviction in fact qualifies as a “violent felony” under the ACCA. *See Shepard*, 544 U.S. at 21 (holding that a sentencing court may not look “beyond conclusive records made or used in adjudicating guilt” under the ACCA).

**B. *The ACCA Applies to Bell’s Three Convictions under Delaware’s Third Degree Burglary Statute.***

To determine whether the defendant’s three Burglary Third convictions qualify as “violent felonies,” this Court must decide if the word “building” in the Delaware indictment, Gov’t Ex. 2, has the same meaning as a “building” or structure within the generic definition of burglary. *See Taylor*, 495 U.S. at 598. Thus this case hinges on when a “building” is in fact a building.

The defendant has three prior convictions for Burglary in the Third Degree under Title 11, Section 824 of the Delaware Code. Section 824 provides that “[a] person is guilty of burglary in the third degree when the person knowingly enters or remains unlawfully in a building with intent to commit a crime therein.” The Delaware Code further provides, however, that the term “building,” “in addition to its ordinary meaning” includes “any structure, vehicle, or watercraft.” 11 Del. C. § 222(1). The Government concedes that the Delaware crime of Burglary Third Degree is broader than the generic definition of burglary because it is not limited to structures comprised of walls and a roof, but also includes vehicles and watercraft.<sup>2</sup> Where a state statute “define[s] burglary more

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<sup>2</sup>In *Bennett*, 100 F.3d 1105, the Third Circuit considered whether three convictions under Pennsylvania’s burglary statute constituted predicate offenses under the ACCA. Pennsylvania’s burglary statute, 18 Pa. Cons. Stat. Ann. § 3501, is similar in its breadth to Delaware’s burglary statute in that it prohibits unlawful entries into “any structure, vehicle, or place adapted for overnight

broadly than Congress's generic definition," a conviction under the statute can nevertheless "serve as a predicate offense for a Section 924(e) sentence enhancement if the court concludes that the trier of fact actually found all of the elements of generic burglary in convicting the defendant." *Bennett*, 100 F.3d at 1109.

1. The Indictment and Plea Colloquy Establish that the Defendant's Three Burglary Convictions Meet the Definition of Generic Burglary.

The defendant argues that the plea agreement, Gov't Ex. 3, and plea colloquy, Gov't Ex. 4, "offer no further information" as to the "nature of the 'building' entered unlawfully." Defendant Br. at 5. But the plea colloquy as well as the Indictment, Gov't Ex. 2, do provide additional information establishing that the defendant's crimes involved entry into a building, in the generic sense of the word.

On April 22, 2002, the defendant was charged in an eighteen count Indictment, which included three counts each of Burglary Third Degree and conspiracy second degree, five counts of theft, four counts of Criminal Mischief, and one count of Possession of Burglars' Tools. *See* Gov't Ex. 2. The defendant pleaded guilty to the three Burglary Third Degree counts, and a *nolle prosequi* order was entered on the remaining counts of the Indictment. *See* Gov't Ex. 3.

The three burglary charges to which the defendant pleaded guilty, however, go further than track the statutory language of the Burglary Third Degree statute, 11 Del. C. § 824, because each count specifies the physical address of the building that the defendant unlawfully entered. *See* Gov't

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accommodation of persons, or for carrying on business therein." The Third Circuit found that Pennsylvania's statute was broader than generic burglary because it included vehicles adapted for overnight accommodation, and because it included "any place adapted for 'carrying on business' . . . which are not always confined to structures made up of walls and a roof." *Id.* at 1109.

Ex. 2. Similarly, during the plea colloquy, the defendant agreed that “[he] or one of the other co-defendants” “knowingly and unlawfully entered a building located at 1801 North Broom Street, intending to steal something” as to Count III of the Indictment; “entered or remained unlawfully in 1801 West Broom Street, with intent to commit theft,” as to Count VII of the Indictment; and “did knowingly . . . enter[] or remain[] unlawfully in a building known [as] 1618 Keen Street, with intent to commit a crime of theft,” as to Count XII of the Indictment. *See* Gov’t Ex. 4.

The defense asserts, without support, that this same language would have been used even if the crime involved entry into a vehicle, and that it is not Delaware practice to “spell[] out what the so-called ‘building’ was.” Defendant Br. at 5. But in this case, the Indictment and the plea colloquy did spell out what the “building” was — it was a physical location at a specified address. *Compare Williams v. State*, 884 A.2d 512, 2005 WL 2414375, at \*2 n.6 (Del. Supr. 2005) (substituting the term “vehicle” for “building” in the Burglary Third Degree statute, 11 Del. C. § 824, in a case involving a vehicle break-in: “A person is guilty of burglary in the third degree when the person knowingly enters or remains unlawfully in a [vehicle] with intent to commit a crime therein.”). The plea colloquy, moreover, would make little sense if the court was actually referring to a vehicle rather than a structure. In particular, in discussing Count XII of the Indictment, the court referred to the “building known [as] 1618 Keen Street,” Gov’t Ex. 4 — a statement which can only be interpreted as referring to a physical structure at that address.

By consulting other charges in the Indictment,<sup>3</sup> it is apparent that the term “building,” as used in this case, connotes its commonly understood meaning — a structure with four walls and a roof, located at a particular address — rather than the technical, statutory definition. For example, Count VIII of the Indictment, which charged the defendant with Possession of Burglars’ Tools, specifies that the defendant possessed a flashlight and bolt cutters, “whiling breaking into a building and removing a safe.” *See* Gov’t Ex. 2. It is nonsensical to suggest that the use of bolt cutters to break into a building and remove a safe could apply to a vehicle. In this context, the term “building” clearly refers to an actual physical structure, fitting within the generic definition of burglary.

Indeed, it is plain that it is Delaware practice to specify when a crime occurred in relation to a vehicle or other item, rather than a building. For example, in the counts of the Indictment that charged the defendant with Theft and Criminal Mischief, the Indictment specifies that the crimes involved: a “1994 Jeep Cherokee belonging to Traci Parman” (Counts I and II), “United States currency and two safes belonging to the Salesianum School” (Count IV), “property consisting of safes, doors, and food belonging to Salesianum School” (Count V), “United States Currency and a safe belonging to Kid Shalleens” (Count IX), “property consisting of doors and windows belonging

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<sup>3</sup>While the Third Circuit has not addressed the issue, other courts of appeals have recognized that a court may, consistent with the categorical approach, consider extrinsic evidence for the limited purpose of interpreting the meaning of the indictment or plea agreement. *See United States v. Beasley*, 442 F.3d 386, 392-93 (6th Cir. 2006) (permitting a district court “called upon to determine precisely what state court offense was reflected in the ‘CA:M2’ notation on Defendant’s judgment of conviction . . . to consult[] reliable sources-or, indeed, apply[] basic common sense-to resolve such questions about the proper interpretation of words or notations that appear on the face of a judgment.”); *see also United States v. Redding*, 16 F.3d 298, 303 (8th Cir. 1994) (permitting the sentencing court to consult the date of conviction, case number, length and type of sentence, and the name of the sentencing judge to show that a prior conviction in another name was in fact the defendant’s conviction which could be used to enhance his sentence under the ACCA).



to Kid Shalleens” (Count XI), “United States Currency and a change box belonging to the Dead Presidents Pub” (Count XIII), and “doors and a safe belonging to the Dead Presidents Pub” (Count XV). Gov’t Ex. 2. The Indictment therefore consistently uses terms in the commonly understood meaning of words.

Given the specification of a particular address, the wording of the plea colloquy, and the practice of using plain language in the Indictment, it is apparent that the defendant’s three convictions for Burglary Third Degree meet the elements of generic burglary and qualify as “violent felonies” under the ACCA.

2. Alternatively, the Defendant’s Convictions Fall Within the ACCA’s “Residual Provision” as They Presented a Serious Potential Risk of Physical Injury to Another.

*Taylor* limited its holding to a determination of “what offenses should count as ‘burglaries’ for enhancement purposes,” and noted that “[t]he Government remains free to argue that any offense-including offenses similar to generic burglary-should count towards enhancement as one that ‘otherwise involves conduct that presents a serious potential risk of physical injury to another’ under § 924(e)(2)(B)(ii).” *Taylor v. United States*, 495 U.S. at 600 n.9. Therefore, even if the defendant’s prior convictions do not meet the definition of generic burglary, they do qualify as crimes which “present[] a serious potential risk of physical injury to another,” and thus constitute “violent felonies” under the “residual provision” of the ACCA, 18 U.S.C. § 924(2)(B)(ii).

In April, 2007, the Supreme Court recently applied this provision, holding that unlawful entry into the enclosed curtilage surrounding a residence qualifies as a predicate offense under the ACCA, not as “burglary,” but under the “residual provision,” which encompasses crimes that “otherwise involves conduct that presents a serious potential risk of physical injury to another.” *James v. United States*, 127 S.Ct. 1586, 1599-1600 (April 18, 2007). *James* also relied on that provision in holding

that attempted burglary is a “violent felony.” Even though the Court recognized that attempted burglary is not “burglary,” it found that it nevertheless qualified as a violent felony because such attempts involve the same risks of physical injury as the completed offense. The Court found that “[t]he main risk of burglary arises not from the simple physical act of wrongfully entering onto another’s property, but rather from the possibility of a face-to-face confrontation between the burglar and a third party—whether an occupant, a police officer, or a bystander—who comes to investigate.” *Id.*

At a minimum, the Indictment and plea colloquy make clear that the defendant unlawfully entered a particular address, with the intent to commit a crime of theft inside. Such actions present at least the same risks of physical confrontation and thus, physical injury, as the attempted burglary and entry onto the curtilage presented in *James*, and therefore constitute “violent felonies” under the ACCA.<sup>4</sup> See, e.g., *United States v. Bockes*, 447 F.3d 1090, 1092 (8th Cir. 2006) (holding that Missouri offense of vehicle tampering by operation is a “violent felony” under the ACCA’s residual clause because it “creates the risk of a violent confrontation with the vehicle’s owner or with law enforcement, places the criminal in control of a potentially deadly or dangerous weapon, and makes it likely that ‘the thief may be pursued, or perceive a threat of pursuit, and drive recklessly, turning any pursuit into a high-speed chase with potential harm to innocent people, to the police, and to the thief himself.’”).

### 3. It is the Federal, Not the State Definition of “Violent Felony” That Controls

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<sup>4</sup>This result is not foreclosed by *Bennett*, which did not “reach the issue of whether a conviction under Pennsylvania’s burglary statute automatically qualifies as a § 924(e) ‘violent felony’ as a crime ‘otherwise involv[ing] conduct that presents a serious risk of physical injury to another,’ because the court found the record ‘sufficient to demonstrate all of the elements of generic burglary for each of Bennett’s burglary convictions.’” 100 F.3d at 1110 n.2.

The defendant contends that Burglary Third Degree can never constitute a “violent felony” under the ACCA because Delaware has classified Burglary Third Degree as a “non-violent” felony, in contrast to Burglary First and Second Degree which Delaware classifies as “violent felonies.” In applying the statutory definition of “violent felony” under a federal statute, however, the state’s classification of the crimes is not relevant. Rather, it is the elements of the state offense, and the facts otherwise proven or admitted by the defendant, not the state’s label or classification of the offense, which are determinative. Thus the Supreme Court held in *Taylor*,

It seems to us to be implausible that Congress intended the meaning of “burglary” for purposes of § 924(e) to depend on the definition adopted by the State of conviction. That would mean that a person convicted of unlawful possession of a firearm would, or would not, receive a sentence enhancement based on exactly the same conduct, depending on whether the State of his prior conviction happened to call that conduct “burglary.”

\* \* \*

We think that “burglary” in § 924(e) must have some uniform definition independent of the labels employed by the various States’ criminal codes.

495 U.S. at 590-92; *see also United States v. Sacko*, 247 F.3d 21, 25 (1st Cir. 2001) (“[B]ecause a state’s classification of a crime generally reflects different policy considerations than the federal classification, it is simply not relevant to the determination of whether a crime is a ‘violent felony’” under federal law); *United States v. Baskin*, 886 F.2d 383, 389 (D.C. Cir. 1989) (holding that a state offense is a crime of violence if it meets the sentencing guidelines’ definition regardless of how the state may characterize the crime for its own purposes).<sup>5</sup>

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<sup>5</sup>It is also worth noting that both Burglary First Degree and Burglary Second Degree are apparently broader than the generic definition of “burglary.” Burglary Second Degree applies to entries into “dwellings” or “buildings,” when the defendant is armed with a deadly weapon, or causes physical injury to another. 11 Del. C. § 825. Burglary First Degree requires entry into a “dwelling at night,” and the use of a deadly weapon or physical injury to another. 11 Del. C. § 826.

**CONCLUSION**

The Government respectfully requests that this Court find that the defendant's three burglary convictions, in addition to his prior assault conviction, qualify as predicate offenses under the ACCA, and sentence him as an armed career criminal under the Act.

Respectfully submitted,

COLM F. CONNOLLY  
UNITED STATES ATTORNEY

BY: 

Diana H. Eisenstein  
Assistant United States Attorney

Dated: May 3, 2007.

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However, Delaware law defines "dwelling" as "a *building* which is usually occupied by a person lodging therein at night." 11 Del. C. § 929 (emphasis added). Since "building" includes watercraft and vehicles, none of Delaware's burglary statutes would automatically qualify as "violent felonies" under the ACCA, unless it is shown, as here, that there was unlawful entry into a building, in its generic sense, or that they meet the standard of the ACCA's residual provision for "crimes that presents a serious potential risk of physical injury to another."

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Criminal Action No. 06-69-GMS
	)	
LIONEL BELL,	)	
	)	
Defendant.	)	

**CERTIFICATE OF SERVICE**

I, Jennifer Brown, an employee in the Office of the United States Attorney, hereby certify under penalty of perjury that on May 2, 2007, I electronically filed:

**GOVERNMENT'S SENTENCING MEMORANDUM ON  
THE APPLICATION OF 18 U.S.C. §924(e)**

with the Clerk of Court using CM/ECF. Said document is available for viewing and downloading from CM/ECF, which will send notification of such filing(s) to the following:

James A. Natalie, Jr., Esquire  
Woloshin Lynch, Natalie & Gagne, PA  
3200 Concord Pike  
Wilmington, DE 19803

/s/Jennifer Brown  
Jennifer Brown

**APPENDIX****TABLE OF GOVERNMENT EXHIBITS**

<b>Exhibit</b>	<b>Description</b>
<b>1</b>	Burglary Docket Sheet
<b>2</b>	Burglary Indictment, April 22, 2002
<b>3</b>	Burglary Plea Agreement, September 2, 2002
<b>4</b>	Burglary Plea Colloquy Transcript, September 5, 2002
<b>5</b>	Burglary Judgment and Sentencing Order, September 5, 2002
<b>6</b>	Assault Indictment, September 22, 2003
<b>7</b>	Assault Plea Agreement, March 2, 2004
<b>8</b>	Assault Judgment and Sentencing Order, March 2, 2004

# **GOVERNMENT EXHIBIT 1**

SU IOR COURT CRIMINAL DOCKET  
( as of 05/18/2006 )

Page 1

State of Delaware v. LIONEL BELL

State's Atty: , Esq.

Defense Atty: KEVIN J O'CONNELL , Esq.

AKA: LIONEL M BELL  
LIONEL M BELL

DOB: 11/23/1982

Co-Defendants: KEENO EXUM , JULIUS WILSON

Co-Defendants: KEENO EXUM , LIONEL BELL

Co-Defendants: JULIUS WILSON

Assigned Judge:

## Charges:

Count	DUC#	Crim.Action#	Description	Dispo.	Dispo. Date
001	0202014552	IN02041730W	BURGLARY 3RD	PG	09/05/2002
	0202014552	VN0204173001	VIOL O/PROBATN	VF	10/01/2002
	0202014552	VN0204173002	VIOL O/PROBATN	VF	03/20/2003
	0202014552	VN0204173003	VIOL O/PROBATN	VF	06/27/2003
	0202014552	VN0204173004	VIOL O/PROBATN	VF	03/02/2004
002	0202014552	IN02041731W	CRIM MISC>1500	NOLP	09/05/2002
003	0202014552	IN02041732W	CONSPIRACY SECO	NOLP	09/05/2002
004	0202014552	IN02041733W	THEFT SENIOR	NOLP	09/05/2002
005	0202014552	IN02041734W	BURGLARY 3RD	PG	09/05/2002
	0202014552	VN0204173401	VIOL O/PROBATN	VF	10/01/2002
	0202014552	VN0204173402	VIOL O/PROBATN	VF	03/20/2003
	0202014552	VN0204173403	VIOL O/PROBATN	VF	06/27/2003
	0202014552	VN0204173404	VIOL O/PROBATN	VF	03/02/2004
006	0202014552	IN02041735W	POSS BURG TOOLS	NOLP	09/05/2002
007	0202014552	IN02041736W	THEFT SENIOR	NOLP	09/05/2002
008	0202014552	IN02041737W	CONSPIRACY SECO	NOLP	09/05/2002
009	0202014552	IN02041738W	CRIM MISC <1000	NOLP	09/05/2002
010	0202014552	IN02041739W	BURGLARY 3RD	PG	09/05/2002
	0202014552	VN0204173901	VIOL O/PROBATN	VF	10/01/2002
	0202014552	VN0204173902	VIOL O/PROBATN	VF	03/20/2003
	0202014552	VN0204173903	VIOL O/PROBATN	VF	06/27/2003
	0202014552	VN0204173904	VIOL O/PROBATN	VF	03/02/2004
	0202014552	VN0204173905	VIOL O/PROBATN	VF	10/25/2005
	0202014552	VN0204173906	VIOL O/PROBATN		
011	0202014552	IN02041740W	THEFT SENIOR	NOLP	09/05/2002
012	0202014552	IN02041741W	CONSPIRACY SECO	NOLP	09/05/2002
013	0202014552	IN02041742W	CRIM MISC <1000	NOLP	09/05/2002
014	0202014552	IN02041743W	BURGLARY 3RD	NOLP	09/05/2002
015	0202014552	IN02041744W	CONSPIRACY SECO	NOLP	09/05/2002
016	0202014552	IN02041745W	THEFT < \$1000	NOLP	09/05/2002
017	0202014552	IN02041764W	THEFT SENIOR	NOLP	09/05/2002
018	0202014552	IN02041765W	CRIM MISCH>1500	NOLP	09/05/2002

No.	Event Date	Event	Judge
-----			

EXHIBIT #

2



State of Delaware v. LIONEL BELL

State's Atty: , Esq.

DOB: 11/23/1982

Defense Atty: KEVIN J O'CONNELL , Esq.

AKA: LIONEL M BELL  
LIONEL M BELL

No.	Date	Event	Judge
1	04/22/2002	CASE CONSOLIDATED WITH:0203006031	
2	04/22/2002	INDICTMENT, TRUE BILL FILED.NO 36 ARRAIGNMENT AND BAIL REPRESENTATION 5/3/02 AT 8:30 CASE REVIEW 6/3/02 AT 9:00	
3	04/22/2002	AUTHORIZATION FOR EXTRADITION.	
4	04/22/2002	RULE 9 WARRANT ISSUED.	
5	04/24/2002	NOTICE OF SERVICE - DISCOVERY RESPONSE	
6	04/24/2002	SUMMONS MAILED.	
7	05/03/2002	ARRAIGNMENT CALENDAR, CONTINUED. 051702 FOR SHER.SERV.	REYNOLDS MICHAEL P.
8	05/08/2002	SUMMONS SERVED BY SHERIFF.	
9	05/13/2002	SUMMONS SENT BY SHERIFF RETURNED. NON EST. - LEFT COPY 5/10/02	
10	05/28/2002	RULE 9 WARRANT RETURNED, BAIL SET AT JP COURT 20 SECURED BAIL-RELEASED 5,000.00 100% UNSECURED BOND 12,000.00 100%	
11	06/19/2002	SUMMONS MAILED.	GEBELEIN RICHARD S.
12	06/24/2002	FAST TRACK CALENDAR CAPIAS ORDERED.	GEBELEIN RICHARD S.
13	06/27/2002	CAPIAS RETURNED IN SUPERIOR COURT. BAIL SAME AS PREV. SET & POSTED SECURED BAIL-RELEASED 5,000.00 100% UNSECURED BOND 12,000.00 100% RTSC WITHDRAWN FVCR 7/15/02 AT 2:00	REYNOLDS MICHAEL P.
14	07/10/2002	SUMMONS MAILED.	GEBELEIN RICHARD S.
	07/15/2002	FAST TRACK CALENDAR/CASE REVIEW: SET FOR FAST TRACK FINAL CASE REVIEW ON:07/25/02	GEBELEIN RICHARD S.

ERIOR COURT CRIMINAL DOCKET  
( as of 05/18/2006 )

Page 3

State of Delaware v. LIONEL BELL

State's Atty: , Esq.

Defense Atty: KEVIN J O'CONNELL , Esq.

AKA: LIONEL M BELL  
LIONEL M BELL

DOB: 11/23/1982

No.	Event Date	Event	Judge
	07/25/2002	FAST TRACK CALENDAR/FINAL CASE REVIEW: CONT'D, COURT'S REQUEST--LACK OF JUDGES	
	08/08/2002	FAST TRACK CALENDAR/FINAL CASE REVIEW: CAPIAS ORDERED	GEBELEIN RICHARD S.
15	08/08/2002	RULE TO SHOW CAUSE RETURNED_SIGNED BY LORIN JONES, BONDSMAN.	GEBELEIN RICHARD S.
16	08/12/2002	CAPIAS RETURNED IN SUPERIOR COURT. BAIL SAME AS PREV. SET & POSTED SECURED BAIL-RELEASED UNSECURED BOND RTSC WITHDRAWN FVCH 9/5/02 AT 9:30	REYNOLDS MICHAEL P. 5,000.00 100% 12,000.00 100%
	08/12/2002	BAIL FORFEITURE HEARING: MOOT REASON: RTSC WITHDRAWN AT CAPIAS RETURN ON 8/12/02	
17	09/05/2002	FAST TRACK CALENDAR/FINAL CASE REVIEW: PLED/SENTENCED IMMEDIATELY	GEBELEIN RICHARD S.
20	09/05/2002	SENTENCE: ASOP ORDER SIGNED AND FILED 11/20/02	GEBELEIN RICHARD S.
18	09/13/2002	ADMINISTRATIVE WARRANT FILED - LEVEL (3). PROBATION OFFICER: M. LENHARDT BAIL SET: SECURED BAIL-HELD	SILVERMAN FRED S. 20,000.00
	09/13/2002	OPERATION SAFE STREETS VOP HEARING: MOVED TO NEW TRACK. 10/01/02 VOP W/RSG	SILVERMAN FRED S.
19	09/26/2002	ORDER SCHEDULING TRIAL FILED. TRIAL DATE: 11/26/02 CASE CATEGORY: 2 ASSIGNED JUDGE (CATEGORY 1 CASES ONLY): UNLESS THE COURT IS ADVISED WITHIN 2 WEEKS OF THE UNAVAILABILITY OF NECESSARY WITNESSES, THE COURT WILL CONSIDER THE MATTER READY FOR TRIAL. ABSENT EXCEPTIONAL CIRCUMSTANCES, RESCHEDULING OR CONTINUANCE REQUESTS WILL BE DENIED.	
	10/01/2002	VIOLATION-OF-PROBATION HEARING: DEFENDANT FOUND IN VIOLATION. SENTENCED.	ABLEMAN PEGGY L.
21	03/20/2003	OPERATION SAFE STREETS HEARING: DEFENDANT FOUND IN VIOLATION.	

State of Delaware v. LIONEL BELL  
 State's Atty: , Esq.  
 Defense Atty: KEVIN J O'CONNELL , Esq.

AKA: LIONEL M BELL  
 LIONEL M BELL

DOB: 11/23/1982

No.	Event Date	Event	Judge
		SENTENCED.	
22	03/20/2003	ADMINISTRATIVE WARRANT FILED - LEVEL (3). PROBATION OFFICER: DAVID COLE	
23	03/20/2003		HERLIHY JEROME O.
24	06/03/2003	SENTENCE: ASOP VOP ORDER SIGNED AND FILED 04/30/03. VIOLATION-OF-PROBATION REPORT FILED: CAPIAS REQUESTED. PROBATION OFFICER: DAVID C. COLE LEVEL: III	GEBELEIN RICHARD S.
25	06/11/2003	CAPIAS RETURNED IN SUPERIOR COURT. BAIL SET AT: CASH BAIL COND: REPORT TO P.O. WITHIN 48 HOURS OF RELEASE VOP 6/27/03 AT 9:30 BEFORE J. GEBELEIN	WHITE DAVID A.
	06/27/2003	VIOLATION-OF-PROBATION HEARING: DEFENDANT FOUND IN VIOLATION. SENTENCED.	GEBELEIN RICHARD S.
26	06/27/2003		GEBELEIN RICHARD S.
27	01/08/2004	SENTENCE: VOP ASOP ORDER SIGNED AND FILED 7/10/03 MODIFIED SENTENCE: ASOP ORDER SIGNED AND FILED 1/15/04 RESTITUTION	GEBELEIN RICHARD S.
28	03/02/2004	VIOLATION-OF-PROBATION HEARING: DEFENDANT FOUND IN VIOLATION.SENTENCED.	HERLIHY JEROME O.
29	03/02/2004	VOP ASOP ORDER SIGNED AND FILED ON 3-26-04.	HERLIHY JEROME O.
31	10/17/2005	COMMITMENT TO DEPARTMENT OF CORRECTION.	REYNOLDS MICHAEL P.
30	10/18/2005	ADMINISTRATIVE WARRANT FILED - LEVEL ( ). PROBATION OFFICER: BAIL HEARING HELD THIS DATE AND BAIL SET ON VOPS AS FOLLOWS: BAIL SET: HELD WITHOUT BAIL VOP 10/25/05 @ 9:00	REYNOLDS MICHAEL P.
	10/25/2005	VIOLATION-OF-PROBATION HEARING: DEFENDANT FOUND IN VIOLATION.CONTINUED ON PROBATION (WITH OR WITHOUT) MODIFICATION.	CARPENTER WILLIAM C. JR.
33	10/25/2005		CARPENTER WILLIAM C. JR.

State of Delaware v. LIONEL BELL  
State's Atty: , Esq.  
Defense Atty: KEVIN J O'CONNELL , Esq.

DOB: 11/23/1982

AKA: LIONEL M BELL  
LIONEL M BELL

No.	Event Date	Event	Judge
32	10/31/2005	SENTENCE: VOP ASOP ORDER SIGNED AND FILED ON 11/10/05. VIOLATION-OF-PROBATION REPORT FILED: SUMMONS REQUESTED. PROBATION OFFICER: KENNETH D. MCDOWELL LEVEL: 4 VOP HEARING HELD ON 10/25/05.	CARPENTER WILLIAM C. JR.
34	04/13/2006	VIOLATION-OF-PROBATION REPORT FILED: SUMMONS REQUESTED. PROBATION OFFICER: WILLIAM COYLE LEVEL: 3 VOP HEARING: 04/28/06 @9 AM.	CARPENTER WILLIAM C. JR.
	04/25/2006	VOP SENTENCING CALENDAR, CAPIAS ORDERED. \$2,500.00 CASH.	CARPENTER WILLIAM C. JR.
35	05/06/2006	CAPIAS RETURNED IN JP COURT #20. BAIL SET AT: HELD ON CASH BOND: 2,500 SUPERIOR COURT CAPIAS RETURN SCHEDULED FOR: 05/08/2006 @8:30AM	
36	05/08/2006	CAPIAS RETURNED IN SUPERIOR COURT. BAIL SET AT: CASH BAIL VOP 5/16/06 @ 9:00	REYNOLDS MICHAEL P. 2,500.00 100%
37	05/08/2006	COMMITMENT TO DEPARTMENT OF CORRECTION FILED. (HRYCI)	REYNOLDS MICHAEL P.

\*\*\* END OF DOCKET LISTING AS OF 05/18/2006 \*\*\*  
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CERTIFIED AS A TRUE COPY  
ATTEST SHARON AGNEW  
PROTHONOTARY  
BY Michael P. Reynolds

# **GOVERNMENT EXHIBIT 2**

36

RULE 9 WARRANT - BELL

RULE 9 SUMMONS - EXUM AND WILSON

FILED  
PROTHONOTARY  
2002 AP 22 PM 1:15

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE

V.

INDICTMENT BY THE GRAND JURY

IGNEL BELL  
KEENO EXUM  
JULIUS WILSON

I.D. *Lead* 0202014553 and 0203006031  
0202014531 and 0203006009  
0202014553 and 0203006034

The Grand Jury charges ~~IGNEL BELL~~, KEENO EXUM AND JULIUS WILSON

with the following offenses:

COUNT I. A FELONY~~02-04-1764w~~

#N \_\_\_\_\_

#N \_\_\_\_\_

THEFT in violation of Title 11, Section 841 of the Delaware Code of 1974, as amended.

~~IGNEL BELL~~, KEENO EXUM AND JULIUS WILSON, on or about the 12th day of February, 2002, in the County of New Castle, State of Delaware, did take, exercise control over or obtain with intent to appropriate, property consisting of a 1994 Jeep Cherokee belonging to Traci Parman and valued at greater than \$500.00.

AKB  
5/3/2  
8:30  
CYP  
6/3/2  
9:00

COUNT II. A FELONY

~~IN~~ 02 - 04 - 1765W

#N \_\_\_\_\_

#N \_\_\_\_\_

CRIMINAL MISCHIEF in violation of Title 11, Section 811 of the Delaware Code of 1974,  
as amended.

~~IONEL BELL~~, KEENO EXUM AND JULIUS WILSON, on or about the 12th day of  
February, 2002, in the County of New Castle, State of Delaware, did intentionally cause damage to  
property consisting of a 1994 Jeep Cherokee belonging to Traci Parman and valued in excess of  
\$1,500.00.

COUNT III. A FELONY

~~IN~~ 02 - 04 - 1730W

#N \_\_\_\_\_

#N \_\_\_\_\_

BURGLARY THIRD DEGREE in violation of Title 11, Section 824 of the Delaware Code  
of 1974, as amended.

~~IONEL BELL~~, KEENO EXUM AND JULIUS WILSON, on or about the 12th day of  
February, 2002, in the County of New Castle, State of Delaware, did knowingly and unlawfully  
enter a building located at 1801 N. Broom Street, Wilmington, Delaware, with the intent to  
commit the crime of theft therein.

COUNT IV. A FELONY

LN 02 - 04 - 1733w

#N \_\_\_\_\_

#N \_\_\_\_\_

THEFT in violation of Title 11, Section 841 of the Delaware Code of 1974, as amended.

LIONEL BELL, KEENO EXUM AND JULIUS WILSON, on or about the 12th day of February, 2002, in the County of New Castle, State of Delaware, did take, exercise control over or obtain with intent to appropriate, property consisting of United States currency and two safes belonging to Salesianum School and valued at greater than \$1,000.00.

COUNT V. A FELONY

LN 02 - 04 - 1731w

#N \_\_\_\_\_

#N \_\_\_\_\_

CRIMINAL MISCHIEF in violation of Title 11, Section 811 of the Delaware Code of 1974, as amended.

LIONEL BELL, KEENO EXUM AND JULIUS WILSON, on or about the 12th day of February, 2002, in the County of New Castle, State of Delaware, did intentionally cause damage to property consisting of safes, doors and food belonging to Salesianum School and valued at in excess of \$1,500.00.



COUNT VI. A FELONY

IN 02 - 04 - 1732w

#N \_\_\_\_\_

#N \_\_\_\_\_

CONSPIRACY SECOND DEGREE in violation of Title 11, Section 512 of the Delaware Code of 1974, as amended.

MONTE BEL KEENO EXUM AND JULIUS WILSON, on or about the 12th day of February, 2002, in the County of New Castle, State of Delaware, when intending to promote the commission of a Felony, Burglary Third Degree and/or Theft and/or Criminal Mischief, did agree with each other to engage in conduct constituting said felonies and defendant and/or co-defendant, with whom the defendant conspired, did commit an overt act in pursuance of said conspiracy.

COUNT VII. A FELONY

IN 02 - 04 - 1734w

#N \_\_\_\_\_

#N \_\_\_\_\_

BURGLARY THIRD DEGREE in violation of Title 11, Section 824 of the Delaware Code of 1974, as amended.

MONTE BEL, KEENO EXUM AND JULIUS WILSON, on or about the 20th day of February, 2002, in the County of New Castle, State of Delaware, did knowingly enter or remain unlawfully in a building located at 1801 W. 14th Street, Wilmington, Delaware, with the intent to commit the crime of Theft therein.

COUNT VIII. A FELONY

02 - 04 - 1735w

#N \_\_\_\_\_

#N \_\_\_\_\_

POSSESSION OF BURGLAR'S TOOLS in violation of Title 11, Section 828 of the Delaware Code of 1974, as amended.

MONTE BELL, KEENO EXUM AND JULIUS WILSON, on or about the 20th day of February, 2002, in the County of New Castle, State of Delaware, did possess a flashlight and bolt cutters, tools commonly used to facilitate offenses involving unlawful entry onto premises, whiling breaking into a building and removing a safe, thus evincing an intent to use said tools in the commission of such offense.

COUNT IX. A FELONY

02 - 04 - 1736w

#N \_\_\_\_\_

#N \_\_\_\_\_

THEFT in violation of Title 11, Section 841 of the Delaware Code of 1974, as amended.

MONTE BELL, KEENO EXUM AND JULIUS WILSON, on or about the 20th day of February, 2002, in the County of New Castle, State of Delaware, did take, exercise control over or obtain with intent to appropriate, property consisting of United States currency and a safe belonging to Kid Shalleens and valued at greater than \$1,000.00.

COUNT X. A FELONY

IN 02 - 04 - 1737w

#N \_\_\_\_\_

#N \_\_\_\_\_

CONSPIRACY SECOND DEGREE in violation of Title 11, Section 512 of the Delaware Code of 1974, as amended.

IONEL BILL, KEENO EXUM AND JULIUS WILSON, on or about the 20th day of February, 2002, in the County of New Castle, State of Delaware, when intending to promote the commission of a Felony, Burglary Third Degree and/or Theft and/or Possession of Burglar's Tools, did agree with each other to engage in conduct constituting said felony and defendant and/or co-defendant, with whom the defendant conspired, did commit an overt act in pursuance of said conspiracy.

COUNT XI. A MISDEMEANOR

IN 02 - 04 - 1738w

#N \_\_\_\_\_

#N \_\_\_\_\_

CRIMINAL MISCHIEF in violation of Title 11, Section 811 of the Delaware Code of 1974, as amended.

IONEL BILL, KEENO EXUM AND JULIUS WILSON, on or about the 20th day of February, 2002, in the County of New Castle, State of Delaware, did intentionally cause damage to property consisting of doors and windows belonging to Kid Shalleens and valued at less than \$1,000.00.

COUNT XII. A FELONY

~~\_\_\_\_\_~~ 02-04-1739 w

#N \_\_\_\_\_

#N \_\_\_\_\_

BURGLARY THIRD DEGREE in violation of Title 11, Section 824 of the Delaware Code of 1974, as amended.

~~\_\_\_\_\_~~ BELL, KEENO EXUM AND JULIUS WILSON, on or about the 20th day of February, 2002, in the County of New Castle, State of Delaware, did knowingly enter or remain unlawfully in a building located at 618 Union Street, Wilmington, Delaware, with the intent to commit the crime of Theft therein.

COUNT XIII. A FELONY

~~\_\_\_\_\_~~ 02-04-1740 w

#N \_\_\_\_\_

#N \_\_\_\_\_

THEFT in violation of Title 11, Section 841 of the Delaware Code of 1974, as amended.

~~\_\_\_\_\_~~ BELL, KEENO EXUM AND JULIUS WILSON, on or about the 20th day of February, 2002, in the County of New Castle, State of Delaware, did take, exercise control over or obtain with intent to appropriate, property consisting of United States currency and a change box belonging to Dead Presidents Pub and valued at greater than \$1,000.00.

COUNT XIV. A FELONY

[REDACTED] 02 - 04 - 1741 w

#N \_\_\_\_\_

#N \_\_\_\_\_

CONSPIRACY SECOND DEGREE in violation of Title 11, Section 512 of the Delaware Code of 1974, as amended.

[REDACTED] LIONEL BEEL, KEENO EXUM AND JULIUS WILSON, on or about the 20th day of February, 2002, in the County of New Castle, State of Delaware, when intending to promote the commission of a Felony, Burglary Third Degree and/or Theft did agree with each other to engage in conduct constituting said felony and defendant and/or co-defendant, with whom the defendant conspired, did commit an overt act in pursuance of said conspiracy.

COUNT XV. A MISDEMEANOR

[REDACTED] 02 - 04 - 1742 w

#N \_\_\_\_\_

#N \_\_\_\_\_

CRIMINAL MISCHIEF in violation of Title 11, Section 811 of the Delaware Code of 1974, as amended.

[REDACTED] LIONEL BEEL, KEENO EXUM AND JULIUS WILSON, on or about the 20th day of February, 2002, in the County of New Castle, State of Delaware, did intentionally cause damage to property consisting of doors and a safe belonging to Dead Presidents Pub and valued at less than \$1,000.00.

COUNT XVI. A FELONY

~~IN~~ 02 - 04 - 1743w

#N \_\_\_\_\_

#N \_\_\_\_\_

BURGLARY THIRD DEGREE in violation of Title 11, Section 824 of the Delaware Code of 1974, as amended.

~~IONIE BELL~~, KEENO EXUM AND JULIUS WILSON, on or about the 20th day of February, 2002, in the County of New Castle, State of Delaware, did knowingly enter or remain unlawfully in a building located at 906 Union Street, Wilmington, Delaware, with the intent to commit the crime of Theft therein.

COUNT XVII. A FELONY

~~IN~~ 02 - 04 - 1744w

#N \_\_\_\_\_

#N \_\_\_\_\_

CONSPIRACY SECOND DEGREE in violation of Title 11, Section 512 of the Delaware Code of 1974, as amended.

~~IONIE BELL~~, KEENO EXUM AND JULIUS WILSON, on or about the 20th day of February, 2002, in the County of New Castle, State of Delaware, when intending to promote the commission of a Felony, Burglary Third Degree, did agree with each other to engage in conduct constituting said felony and defendant and/or co-defendant with whom the defendant conspired, did commit an overt act in pursuance of said conspiracy.

COUNT XVIII. A MISDEMEANOR

#N

#N

THEFT in violation of Title 11, Section 841 of the Delaware Code of 1974, as amended.

LIONEL REEL KEENO EXUM AND JULIUS WILSON, on or about the 20th day of February, 2002, in the County of New Castle, State of Delaware, did take, exercise control over or obtain with intent to appropriate, property consisting of United States currency belonging to Kozy Korner and valued at less than \$1,000.00.

A TRUE BILL

J. Mitchell  
(FOREPERSON)

M. Gene Brady  
ATTORNEY GENERAL

[Signature]  
DEPUTY ATTORNEY GENERAL

CERTIFIED AS A TRUE COPY  
ATTEST SHARON AGNEW  
PROTHONOTARY  
BY Michael [Signature]

# **GOVERNMENT EXHIBIT 3**



## PLEA AGREEMENT

State of Delaware v. Lionel Bell

Case No(s):

Cr.A.#s:

0203017273  
0202014553  
0203006031

☐ Title 11 HAB. OFFENDER

☐ BOOT CAMP ELIGIBLE

☐ INELIGIBLE

☐ RULE 11(e)(1)(C) — If out of guideline, reason is as follows:

☐ Title 11, §4336, sex offender notification required

☐ Title 11, §9019(e), forensic fine ☐ \$100(F), ☐ \$50(M)

Defendant will plead guilty to:

Count Cr.A.#

Charge

[LIO if applicable]

12 IN 02.04.1739W Burg 3<sup>rd</sup>  
7 IN 02.04.1734W Burg 3<sup>rd</sup>  
3 IN 02.04.1730W Burg 3<sup>rd</sup>

VOP

Upon the sentencing of the defendant, a nolle prosequi is entered on ☐ the following charges/ ☒ all remaining charges on this indictment:

Count Cr.A.#

Charge

Sentence Recommendation/Agreement:

☐ PSI

☒ Immediate Sentencing

6 YEARS AT L. II SUSP'D FOR 6 MONTHS  
AT L. IV (PLUMMER CR.) (HOLD AT L. III) BALANCE  
AT L. III, II & I

State and Defendant agree to the following:

☒ Restitution: to all victims

☐ No \_\_\_\_\_ contact w/ \_\_\_\_\_

☐ Other Conditions:

SAC & TX  
discharge VOP

DAG:

W. George

PRINT NAME

[Signature]

SIGNATURE

DEF. COUNSEL:

KEVIN O'CONNOR

PRINT NAME

[Signature]

SIGNATURE

Date:

9-5-02

DEFENDANT:

Lionel Bell

CERTIFIED AS A TRUE COPY

ATTEST SHARON AGNEW

PROTHONOTARY

BY M. M. M.

Page \_\_\_\_\_ of \_\_\_\_\_

# **GOVERNMENT EXHIBIT 4**

1 IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
2 IN AND FOR NEW CASTLE COUNTY

3 STATE OF DELAWARE CRIMINAL PROCEEDINGS

4 vs.

ID NO.0202014552

5 LIONEL BELL,  
6 Defendant.  
7

8 BEFORE: THE HONORABLE RICHARD S. GEBELEIN, J.  
9

10

11 APPEARANCES:

12

13 WILLIAM GEORGE, ESQUIRE  
14 Deputy Attorney General  
For the State

15 KEVIN O'CONNELL, ESQUIRE  
16 For the Defendant

17 Courtroom 4B

18 Thursday, September 5, 2002.

19 GUILTY PLEA AND SENENCING  
20  
21  
22  
23

Jean Preston, CSR  
Official Court Reporter  
500 N. King Street Suite 2609  
Wilmington, DE. 19801-3725

1 September 5, 2002  
 2 (WHEREUPON, the following takes place in open  
 3 court.)  
 4 MR. GEORGE: Your Honor, this is Mr. Bell.  
 5 Mr. Bell is entering a guilty plea to three  
 6 counts of burglary third, Counts III, VII, XII. He is  
 7 admitting to the violation of probation. The State's  
 8 going to recommend that he be discharged as unimproved on  
 9 the other violation of probation. We're going to  
 10 recommend a total of six years Level V suspended for six  
 11 months at Level IV, Plummer Center, hold at Level III,  
 12 the balance at Level III, II and I.  
 13 I'm handing to The Court the Plea Agreement  
 14 and the Guilty Plea Form.  
 15 MR. O'CONNELL: Your Honor, this is Lionel  
 16 Bell standing to my right. He has executed the Guilty  
 17 Plea Form in my presence. I think he understood and  
 18 answered truthfully all of the questions on that form, he  
 19 understood the penalties he's exposing himself to, and he  
 20 asks The Court to accept this plea as knowingly  
 21 intelligently and voluntarily made and that there is a  
 22 basis in fact for it, and that he is ready to answer Your  
 23 Honor's questions.

Jean Preston, CSR  
 Official Court Reporter  
 500 N. King Street Suite 2609  
 Wilmington, DE. 19801-3725

1 in addition to that to get you to plead guilty?  
 2 THE DEFENDANT: No.  
 3 THE COURT: Has anybody threatened you or  
 4 forced you in any way to make you plead guilty?  
 5 THE DEFENDANT: No.  
 6 THE COURT: You understand that by pleading  
 7 guilty you are not going to have a trial?  
 8 THE DEFENDANT: Yes.  
 9 THE COURT: And that you are giving up all of  
 10 the rights that you would have had at a trial?  
 11 THE DEFENDANT: Yes.  
 12 THE COURT: These particular offenses happen to  
 13 be felonies and carry together a maximum of up to nine  
 14 years in prison and you have two years on the VOP that you  
 15 got, so a total consequence of the plea could be up to 11  
 16 years in prison.  
 17 Do you understand that?  
 18 THE DEFENDANT: Yes.  
 19 THE COURT: Has anybody promised you what  
 20 sentence you actually will receive?  
 21 THE DEFENDANT: No.  
 22 THE COURT: Have you discussed your case and  
 23 your rights with your lawyer?

Jean Preston, CSR  
 Official Court Reporter  
 500 N. King Street Suite 2609  
 Wilmington, DE. 19801-3725

## GUILTY PLEA AND SENTENCING

3

1 THE COURT: Are you Lionel Bell?  
 2 THE DEFENDANT: Yes, I am.  
 3 THE COURT: Are you presently under the  
 4 influence of either alcohol or drugs?  
 5 THE DEFENDANT: No, I'm not.  
 6 THE COURT: Have you freely and voluntarily  
 7 decided to enter these pleas today?  
 8 THE DEFENDANT: Yes, I have.  
 9 THE COURT: The Plea Agreement says that you  
 10 are going to enter please of guilt to three counts of  
 11 burglary third degree. The State in return is going to  
 12 enter a nolle prosequi or drop all of the remaining  
 13 charges against you and is going to recommend immediate  
 14 sentencing, six years in prison suspended for six months  
 15 at Level V, for Work Release. You will be held at Level  
 16 III and the balance at Levels III, II and I. You agree to  
 17 make restitution to all the victims according to a  
 18 Presentence Report, participate in substance abuse  
 19 evaluation and treatment. The State's going to recommend  
 20 that the violation of probation be discharged.  
 21 Is that your understanding?  
 22 THE DEFENDANT: Yes, it is.  
 23 THE COURT: Has anybody promised you anything

Jean Preston, CSR  
 Official Court Reporter  
 500 N. King Street Suite 2609  
 Wilmington, DE. 19801-3725

## GUILTY PLEA AND SENTENCING

5

1 THE DEFENDANT: Yes, I have.  
 2 THE COURT: Are you satisfied with his advise?  
 3 THE DEFENDANT: Yes.  
 4 THE COURT: Count III of the indictment charges  
 5 that you, on or about the 12th day of February, 2002, New  
 6 Castle County, State of Delaware, you did knowingly and  
 7 unlawfully enter into a buuiling located at 1801 North  
 8 Broom Street with the intent to commit the crime of theft  
 9 therein.  
 10 Did you do that?  
 11 THE DEFENDANT: No, I didn't.  
 12 MR. O'CONNELL: May I have a moment, Your  
 13 Honor?  
 14 THE COURT: Sure.  
 15 (WHEREUPON, there is a discussion off the  
 16 record.)  
 17 MR. O'CONNELL: He didn't understand the  
 18 question, Your Honor. If you could ask him again?  
 19 THE COURT: Okay. Basically, what this charges  
 20 is that you on or about the 12th day of February, 2002,  
 21 you or one or the other co-defendants in this case,  
 22 knowingly and unlawfully entered into a building located  
 23 at 1801 North Broom Street, intending to steal something.

Jean Preston, CSR  
 Official Court Reporter  
 500 N. King Street Suite 2609  
 Wilmington, DE. 19801-3725

1 Were you involved in that?  
 2 THE DEFENDANT: Yes, I was involved.  
 3 THE COURT: Okay. And it is your desire to  
 4 enter a plea of guilt to it today?  
 5 THE DEFENDANT: Yes.  
 6 THE COURT: Count VII charges, likewise, that  
 7 on the 20th day of February, 2002, New Castle County,  
 8 State of Delaware, you or one of the co-defendants  
 9 knowingly entered or remained unlawfully in 1801 West  
 10 Broom Street, with the intent to commit theft.  
 11 Again, you were involved in that?  
 12 THE DEFENDANT: Yes.  
 13 THE COURT: And you want to enter a plea of  
 14 guilty? THE DEFENDANT: Yes.  
 15 THE COURT: Count 12 charges that you, on or  
 16 about the 20th day of February, 2002, New Castle County,  
 17 State of Delaware, did knowingly, or one of the  
 18 co-defendants, entered or remained unlawfully in a  
 19 building known 1618 Keen Street, with the intent to commit  
 20 the crime of theft?  
 21 Again, were you involved in that?  
 22 THE DEFENDANT: Yes.  
 23 THE COURT: And you want to plead guilty to it?

Jean Preston, CSR  
 Official Court Reporter  
 500 N. King Street Suite 2609  
 Wilmington, DE. 19801-3725

## GUILTY PLEA AND SENTENCING

7

1 THE DEFENDANT: Yeah.  
 2 THE COURT: The Court finds your guilty pleas  
 3 to be knowingly, voluntarily and intelligently made and I  
 4 direct that a finding of guilt be entered.  
 5 MR. O'CONNELL: Your Honor, with respect to  
 6 sentencing. This gentleman is working right now. He  
 7 should be working today at Sears as a matter of fact.  
 8 The State recognizes he doesn't have a significant  
 9 record as the other defendants in the case nor was he  
 10 probably as directly involved in the burglaries as they  
 11 were. Nonetheless, he did participate.  
 12 We think the sentencing recommendation is  
 13 appropriate. Work Release is a step up from what he was  
 14 on before.  
 15 Hopefully, that type of supervision will get  
 16 him on the right track so you won't see him back in court  
 17 again.  
 18 We ask that The Court follow the  
 19 recommendations.  
 20 Thank you.  
 21 THE COURT: Okay. Mr. Bell, is there anything  
 22 that you would like to say?  
 23 THE DEFENDANT: I just ask that The Court

Jean Preston, CSR  
 Official Court Reporter  
 500 N. King Street Suite 2609  
 Wilmington, DE. 19801-3725

1 answer my me plea and give me Work Release. I think it's  
 2 a lot better Level V; at least I would be working.  
 3 That's all I can ask.  
 4 THE COURT: Mr. Bell, I guess obviously you're  
 5 a young man, and as the State has indicated there is not a  
 6 significant criminal record here.  
 7 However, I do note that the other offense that  
 8 you pled guilty to in December of 2001 was a felony.  
 9 This is a felony. You are acquiring a record that's  
 10 going to get you qualified at an early age of being an  
 11 habitual offender if you keep doing things like this.  
 12 The State is being I think fairly generous  
 13 today not asking you to go to jail for these burglaries  
 14 you were involved in.  
 15 It would be my suggestion to you to take  
 16 advantage of that break and get through this probation in  
 17 a way that doesn't bring you back before the Court  
 18 because I don't think you can expect them to give you the  
 19 same sort of break the next time.  
 20 Okay. So, with regard to zero, 0201739, pay  
 21 the costs of prosecution, you are to make restitution  
 22 according to a present memorandum, that you be placed in  
 23 the custody of the Department of Corrections for a period

Jean Preston, CSR  
 Official Court Reporter  
 500 N. King Street Suite 2609  
 Wilmington, DE. 19801-3725

## GUILTY PLEA AND SENTENCING

9

1 of two years Level V incarceration to begin on September  
 2 5, 2002. That is suspended for two years Level IV.  
 3 That's going to be Work Release. After six months that  
 4 is reduced to Level III for eighteen months. You will be  
 5 held at Level III until Level IV is available.  
 6 With regard to 02041734 it is the order of The  
 7 Court that you pay the costs of prosecution, pay a fine  
 8 in the amount of a \$100 plus the surcharges, that you be  
 9 placed in the custody of the Department of Corrections  
 10 for two years Level V to run consecutive. That is  
 11 suspended for two years initially at Level II, probation.  
 12 After one year that is reduced to level one for the  
 13 remaining year.  
 14 With regard to 02041730, it is the order of  
 15 The Court that you pay the costs of prosecution, pay a  
 16 fine in the amount of a \$100 plus the surcharge, two  
 17 years Level V to run consecutive. That is suspended for  
 18 two years, Level II, to run concurrent to the probation  
 19 in 1734. After one year that is reduced to Level I for  
 20 one year.  
 21 01110105 is discharged as unimproved.  
 22 It is the order of The Court that you be  
 23 evaluated by the Treatment Access Center and be subject

Jean Preston, CSR  
 Official Court Reporter  
 500 N. King Street Suite 2609  
 Wilmington, DE. 19801-3725

1 to their supervision for treatment purposes.

2 Good luck.

3 (WHEREUPON, the proceeding are concluded.)

4 STATE OF DELAWARE)

5 NEW CASTLE COUNTY)

6 CERTIFICATE OF COURT REPORTER

7 I, Jean Preston, Official Court Reporter of the  
8 Superior Court, State of Delaware, do hereby certify  
9 that the foregoing is an accurate transcription of the  
10 proceedings had as reported by me in the Superior Court  
11 of the State of Delaware, in and for New Castle County,  
12 in the case herein stated, as the same remains of record  
13 in the Office of the Prothonotary at Wilmington,  
14 Delaware, and that I am neither of counsel nor kin to  
15 any party or participant in said action, nor interested  
16 in the outcome thereof.

17 This certification shall be considered null and  
18 void if this transcript is disassembled in any manner by  
19 any party without authorization of the signatory below.

20 WITNESS my hand this day of MARCH, 2007

21 Jean Preston, CSR

22 Official Court Reporter

23 Jean Preston, CSR  
Official Court Reporter  
500 N. King Street Suite 2609  
Wilmington, DE. 19801-3725

# **GOVERNMENT EXHIBIT 5**

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY



(27)

STATE OF DELAWARE

VS.

LIONEL BELL

Alias: NO ALIASES

DOB: 11/23/1982

SBI: 00460715

CASE NUMBER:

0202014552

CRIMINAL ACTION NUMBER:

IN02-04-1739W

BURGLARY 3RD(F)

IN02-04-1734W

BURGLARY 3RD(F)

IN02-04-1730W

BURGLARY 3RD(F)

RELEASE

MODIFIED SENTENCE ORDER

NOW THIS 8TH DAY OF JANUARY, 2004, IT IS THE ORDER OF  
THE COURT THAT: THE ORDER DATED September 5, 2002 IS  
HEREBY MODIFIED AS FOLLOWS:

The defendant is adjudged guilty of the offense(s) charged.  
The defendant is to pay the costs of prosecution and all  
statutory surcharges.

AS TO IN02-04-1739-W : TIS  
BURGLARY 3RD

The defendant shall pay his/her restitution  
joint/severally as follows: See attached list of Payees.

Effective September 5, 2002 the defendant is sentenced  
as follows:

- The defendant is placed in the custody of the Department  
of Correction for 2 year(s) at supervision level 5

- Suspended immediately

- For 2 year(s) supervision level 4 WORK RELEASE

\*\*APPROVED ORDER\*\* 1 January 14, 2004 15:01

2004 JAN 15 PM 2:33

FILED  
PROTHONOTARY



STATE OF DELAWARE

VS.

LIONEL BELL

DOB: 11/23/1982

SBI: 00460715

- Suspended after serving 6 month(s) at supervision level 4
- For 18 month(s) supervision level 3
- Hold at supervision level 3
- Until space is available at supervision level 4 WORK RELEASE

AS TO IN02-04-1734-W : TIS  
BURGLARY 3RD

The defendant is to pay a fine in the amount of \$100.00 plus all surcharges and fees (see attachment).

The defendant shall pay his/her restitution joint/severally as follows: See attached list of Payees.

- The defendant is placed in the custody of the Department of Correction for 2 year(s) at supervision level 5
- Suspended immediately
- For 2 year(s) supervision level 2
- Suspended after serving 1 year(s) at supervision level 2
- For 1 year(s) supervision level 1

Probation is consecutive to criminal action number 02-04-1739

AS TO IN02-04-1730-W : TIS  
BURGLARY 3RD

The defendant is to pay a fine in the amount of \$100.00 plus all surcharges and fees (see attachment).

The defendant shall pay his/her restitution joint/severally as follows: See attached list of Payees.

\*\*APPROVED ORDER\*\*      2      January 14, 2004 15:01

STATE OF DELAWARE

VS.

LIONEL BELL

DOB: 11/23/1982

SBI: 00460715

- The defendant is placed in the custody of the Department of Correction for 2 year(s) at supervision level 5

- Suspended immediately

- For 2 year(s) supervision level 2

- Suspended after serving 1 year(s) at supervision level 2

- For 1 year(s) supervision level 1

Probation is concurrent to criminal action number  
02-04-1734 .

\*\*APPROVED ORDER\*\*

3

January 14, 2004 15:01

SPECIAL CONDITIONS BY DER

STATE OF DELAWARE  
VS.

LIONEL BELL  
DOB: 11/23/1982  
SBI: 00460715

CASE NUMBER:  
0202014552

The defendant shall pay any monetary assessments ordered during the period of probation pursuant to a schedule of payments which the probation officer will establish.

NOTES

NOTE: The sentence in VN01-11-0105-01 is discharged unimproved.

=====

The order dated September 5, 2002 is modified as follows:

- ② Restitution in the amount of \$4,573.52 is ordered to be paid to Salesianum School.
- ⑦ Restitution in the amount of \$4,144.25 is ordered to be paid to Flik Corporation Insurance.
- ⑤ Restitution in the amount of \$396.94 is ordered to be paid to Kid Shelleens.
- ⑨ Restitution in the amount of \$730.00 is ordered to be paid to Zurich Insurance.
- ③ Restitution in the amount of \$2,177.40 is ordered to be paid to Dead Presidents Pub.
- ⑧ Restitution in the amount of \$4,092.55 is ordered to be paid to Hartford Mutual Insurance Company.
- ④ Restitution in the amount of \$1,991.00 is ordered to be paid to Kozy Korner Restaurant.
- ⑥ Restitution in the amount of \$4,700.00 is ordered to be paid to AIG Insurance.
- ① Restitution in the amount of \$640.00 is ordered to be paid to Traci Parman.

In all other respects, the order dated September 5, 2002 shall remain the same.

\*\*APPROVED ORDER\*\*

4

January 14, 2004 15:01

STATE OF DELAWARE

VS.

LIONEL BELL

DOB: 11/23/1982

SBI: 00460715

=====

  
JUDGE RICHARD S GEBELEIN

FILED  
PROTHONOTARY  
2004 JAN 15 PM 2:34

CERTIFIED AS A TRUE COPY  
ATTEST SHARON AGNEW  
PROTHONOTARY  
BY Michael Mark

\*\*APPROVED ORDER\*\*

5

January 14, 2004 15:01

FINANCIAL SUMMARY

STATE OF DELAWARE

VS.

LIONEL BELL

DOB: 11/23/1982

SBI: 00460715

CASE NUMBER:

0202014552

SENTENCE CONTINUED:

TOTAL DRUG DIVERSION FEE ORDERED	
TOTAL CIVIL PENALTY ORDERED	
TOTAL DRUG REHAB. TREAT. ED. ORDERED	
TOTAL EXTRADITION ORDERED	
TOTAL FINE AMOUNT ORDERED	200.00
FORENSIC FINE ORDERED	
RESTITUTION ORDERED	23445.66
SHERIFF, NCCO ORDERED	5.80
SHERIFF, KENT ORDERED	
SHERIFF, SUSSEX ORDERED	
PUBLIC DEF, FEE ORDERED	50.00
PROSECUTION FEE ORDERED	100.00
VICTIM'S COM ORDERED	36.00
VIDEOPHONE FEE ORDERED	3.00
<hr/> TOTAL	<hr/> 23,840.46

\*\*APPROVED ORDER\*\*

6

January 14, 2004 15:01

SURCHARGES

STATE OF DELAWARE

VS.

LIONEL BELL

DOB: 11/23/1982

SBI: 00460715

CASE NUMBER:

0202014552

<u>CRIM ACTION #</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
IN02-04-1734	VCF	18.00
IN02-04-1730	VCF	18.00

\*\*APPROVED ORDER\*\*

7

January 14, 2004 15:01

RESTITUTION SUMMARY

STATE OF DELAWARE  
VS.

LIONEL BELL

DOB: 11/23/1982

SBI: 00460715

CASE NUMBER:

0202014552

AS TO IN02-04-1739 :

The defendant shall pay restitution  
joint/severally as follows:

\$	2177.40	to	DEAD PRESIDENTS PUB
\$	4092.55	to	HARTFORD MUTUAL INS.
\$	1991.00	to	KOZY KORNER
\$	4700.00	to	AIG INSURANCE
\$	640.00	to	TRACI PARMAN

AS TO IN02-04-1734 :

The defendant shall pay restitution  
joint/severally as follows:

\$	396.94	to	KID SHELLEENS
\$	730.00	to	ZURICH INSURANCE

AS TO IN02-04-1730 :

The defendant shall pay restitution  
joint/severally as follows:

\$	4573.52	to	SALESIANUM H. S.
\$	4144.25	to	FLIK CORP. (INS.)

\*\*APPROVED ORDER\*\*

8

January 14, 2004 15:01

# **GOVERNMENT EXHIBIT 6**



**RULE 9 SUMMONS - RE-INDICTMENT BELL, NOBLE AND RUTHERFORD ONLY**

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

THE STATE OF DELAWARE

V.

)  
)  
) INDICTMENT BY THE GRAND JURY  
)  
)

~~LIONEL BELL~~

) I.D. # ~~0305018856~~

STEVEN GRIMES

) 0305018737

ROAN NOBLE

) 0305018860

DAMON RUTHERFORD

) 0305018872

The Grand Jury charges ~~LIONEL BELL~~, STEVEN GRIMES, ROAN NOBLE AND

DAMON RUTHERFORD with the following offenses:

COUNT I. A FELONY

T#N 03 - 09 - 1971

T#N 03 - 09 - 0146

T#N 03 - 09 - 1975

T#N 03 - 09 - 1979

**ROBBERY FIRST DEGREE** in violation of Title 11, Section 832 of the Delaware

Code of 1974, as amended.

~~LIONEL BELL~~, STEVEN GRIMES, ROAN NOBLE AND DAMON

RUTHERFORD, on or about the 26th day of May, 2003, in the County of New Castle, State of Delaware, when in the course of committing theft, did use or threaten the immediate use of force upon Joseph Toner, with intent to prevent or overcome resistance to the taking of property or to the retention thereof immediately after the taking or with the intent to compel

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CLERK OF COURT  
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ABS  
10/17/03  
9:30  
TJ  
10/9/03  
9:00

said person to deliver up property or to engage in other conduct which aided in the commission of the theft, and in the course of the commission of the crime or the immediate flight therefrom, one of them caused physical injury to Joseph Toner, who was not a participant in the crime.

COUNT II. A FELONY

~~T#N~~ 03-09-1972  
~~T#N~~ 03-09-0147  
~~T#N~~ 03-09-1976  
~~T#N~~ 03-09-1980

**POSSESSION OF A FIREARM DURING THE COMMISSION OF A FELONY** in violation of Title 11, Section 1447A of the Delaware Code of 1974, as amended.

~~LIONEL BELL~~, STEVEN GRIMES, ROAN NOBLE AND DAMON

RUTHERFORD, on or about the 26th day of May, 2003, in the County of New Castle, State of Delaware, did knowingly possess a gun, a firearm as defined by Title 11, Section 222 of the Delaware Code of 1974, as amended, during the commission of Robbery First Degree, a felony as set forth in Count I of this indictment which is incorporated herein by reference.

COUNT III. A FELONY

~~T#N~~ 03-09-1977  
~~T#N~~ 03-09-0148  
~~T#N~~ 03-09-1977  
~~T#N~~ 03-09-1981

**ASSAULT FIRST DEGREE** in violation of Title 11, Section 613 of the Delaware Code of 1974, as amended.

**LIONEL BELL, STEVEN GRIMES, ROAN NOBLE AND DAMON**

**RUTHERFORD**, on or about the 26th day of May, 2003, in the County of New Castle, State of Delaware, did recklessly engage in conduct which created a substantial risk of death to Joseph Toner by, *inter alia*, struggling with him while in possession of a loaded firearm, which conduct caused serious physical injury to Joseph Toner.

**COUNT IV. A FELONY**

**[REDACTED]** 03-09-1974  
**[REDACTED]** 03-09-1978  
**[REDACTED]** 03-09-1982  
#N \_\_\_\_\_

**CONSPIRACY SECOND DEGREE** in violation of Title 11, Section 512 of the Delaware Code of 1974, as amended.

**[REDACTED] LIONEL BELL, ROAN NOBLE AND DAMON RUTHERFORD**, on or about the 26th day of May, 2003, in the County of New Castle, State of Delaware, when intending to promote or facilitate the commission of the felony of Robbery, did agree with each other and/or Steven Grimes and/or an unknown female that they or one or more of them would engage in conduct constituting said felony or an attempt or solicitation to commit said felony, and the defendant or one of the co-conspirators did commit an overt act in pursuance of said conspiracy by committing said felony as set forth in Count I of this Indictment which is herein incorporated by reference.

COUNT V. A FELONY

T#N 03-09-014

**CARRYING A CONCEALED DEADLY WEAPON** in violation of Title 11, Section 1442 of the Delaware Code of 1974, as amended.

**STEVEN GRIMES**, on or about the 26th day of May, 2003, in the County of New Castle, State of Delaware, did knowingly and unlawfully carry concealed upon or about his person a gun, a deadly weapon as defined by Title 11, Section 222 of the Delaware Code of 1974, as amended.

COUNT VI. A FELONY

T#N 03-09-1764

**CARRYING A CONCEALED DEADLY WEAPON** in violation of Title 11, Section 1442 of the Delaware Code of 1974, as amended.

**STEVEN GRIMES**, on or about the 26th day of May, 2003, in the County of New Castle, State of Delaware, did knowingly and unlawfully carry concealed upon or about his person a gun, a deadly weapon as defined by Title 11, Section 222 of the Delaware Code of 1974, as amended.

COUNT VII. A MISDEMEANOR

T#N 03-09-1765

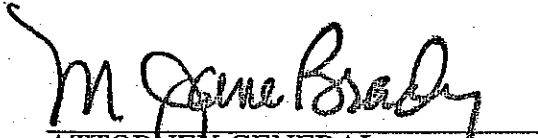
**POSSESSION OF A NON-NARCOTIC SCHEDULE I CONTROLLED SUBSTANCE** in violation of Title 16, Section 4754 of the Delaware Code of 1974, as amended.

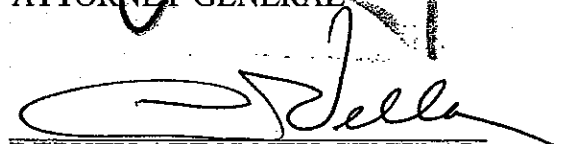
**STEVEN GRIMES**, on or about the 26th day of May, 2003, in the County of New Castle, State of Delaware, did knowingly and unlawfully possess Marijuana, a Non-Narcotic Schedule I Controlled Substance as classified under Title 16, Section 4714 (d)(19) of the

Delaware Code of 1974, as amended.

A TRUE BILL


  
(FOREPERSON)

  
ATTORNEY GENERAL

  
DEPUTY ATTORNEY GENERAL

2003 SEP 22 PM 4:46

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PROTHONOTARY

CERTIFIED AS A TRUE COPY  
ATTEST SHARON AGNEW  
PROTHONOTARY  
BY 

# **GOVERNMENT EXHIBIT 7**

## PLEA AGREEMENT

JDH

State of Delaware v. LIONEL BELL

Case No(s): 0305018856 Cr.A.#s: \_\_\_\_\_

- ☐ Title 11 HAB. OFFENDER \_\_\_\_\_ ☐ BOOT CAMP ELIGIBLE ☐ INELIGIBLE  
☐ RULE 11(e)(1)(C) — If out of guideline, reason is as follows: \_\_\_\_\_  
☐ Title 11, § 4336, sex offender notification required ☐ Title 11, § 9019(e), forensic fine ☐ \$100(F), ☐ \$50(M)

Defendant will plead guilty to:

Count	Cr.A.#	Charge	[LIO if applicable]
<del>1</del>	<del>N 03-09-1977</del>	<del>ROBBERY 2</del>	<del>[LIO 11/83]</del>
3	N 03-09-1973	ASSAULT 2	[LIO 11/612] 612(a)(2)
2	N 03-09-1972	PDW DCF	[LIO 11/1447]

Upon the sentencing of the defendant, a nolle prosequi is entered on ☐ the following charges/☒ all remaining charges on this indictment: 0305018856

Count	Cr.A.#	Charge

Sentence Recommendation/Agreement: ☒ PSI ☐ Immediate Sentencing  
PDW DCF - 5 yrs LVI sus aft 2 yrs (min max) for 18 mos LIII  
ASSAULT 2 - 5 yrs LVI sus for 18 mos LIII (concurrent)

State and Defendant agree to the following:

- ☐ Restitution: \_\_\_\_\_  
☒ No \_\_\_\_\_ contact w/ JOSEPH TOWER  
☐ Other Conditions: \_\_\_\_\_

DAG: ANDREW J. VELLA

PRINT NAME

[Signature]  
SIGNATURE

DEF. COUNSEL: Kester J.H. [Signature]

PRINT NAME

[Signature]  
SIGNATURE

Date: 3/2/04

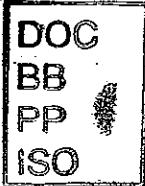
DEFENDANT: Lionel Bell  
CERTIFIED AS A TRUE COPY  
ATTEST SHARON AGNEW  
PROTHONOTARY  
BY Michael [Signature] Page 1 of 1

# **GOVERNMENT EXHIBIT 8**



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY

22



STATE OF DELAWARE

VS.

LIONEL BELL

Alias: NO ALIASES

DOB: 11/23/1982

SBI: 00460715

CASE NUMBER:

0305018856

CRIMINAL ACTION NUMBER:

PN03-09-1972

PDWDCF (F)

LIO: PFDCE

PN03-09-1973

ASLT 2ND (F)

LIO: ASSAULT 1ST

CONSOLIDATED-CASE

CONSOLIDATED-VOP

SENTENCE ORDER

NOW THIS 2ND DAY OF MARCH, 2004, IT IS THE ORDER OF THE COURT THAT:

The defendant is adjudged guilty of the offense(s) charged. The defendant is to pay the costs of prosecution and all statutory surcharges.

AS TO PN03-09-1972- : TIS  
PDWDCF

Effective June 3, 2003 the defendant is sentenced as follows:

- The defendant is placed in the custody of the Department of Correction for 5 year(s) at supervision level 5
- Suspended after serving 2 year(s) at supervision level 5
- For 2 year(s) supervision level 3
- Suspended after serving 12 month(s) at supervision level 3

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PROTHONOTARY  
2004 MAR 26 PM 2:29

\*\*APPROVED ORDER\*\* 1 March 18, 2004 16:03

STATE OF DELAWARE

VS.

LIONEL BELL

DOB: 11/23/1982

SBI: 00460715

- For 12 month(s) supervision level 2

The first 2 years of this sentence is a mandatory term of incarceration pursuant to DE1114470000FB .

AS TO PN03-09-1973- : TIS

ASLT 2ND

- The defendant is placed in the custody of the Department of Correction for 5 year(s) at supervision level 5

- Suspended immediately

- For 2 year(s) supervision level 2

Probation is concurrent to criminal action number 03-09-1972 .

FILED  
PROTHONOTARY  
2004 MAR 26 PM 2:30

\*\*APPROVED ORDER\*\*

2

March 18, 2004 16:03

SPECIAL CONDITIONS BY ORDER

STATE OF DELAWARE

VS.

LIONEL BELL

DOB: 11/23/1982

SBI: 00460715

CASE NUMBER:

0305018856

The defendant shall pay any monetary assessments ordered during the period of probation pursuant to a schedule of payments which the probation officer will establish.

Have no contact with Joseph Toner.

NOTES

Pursuant to S.B. 50, this case is consolidated with ID # 0202014552; Cr .A. No. VN02-04-1739-04, VN02-04-1730-04, and VN 02-04-1734-04, terms and conditions apply to all cases.

  
JUDGE JEROME O HERLIHY

FILED  
PROTHONOTARY  
2004 MAR 26 PM 2:30

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ATTEST SHARON AGNEW  
PROTHONOTARY

BY 

\*\*APPROVED ORDER\*\*

3

March 18, 2004 16:03

STATE OF DELAWARE  
VS.  
LIONEL BELL  
DOB: 11/23/1982  
SBI: 00460715

CASE NUMBER:  
0305018856

SENTENCE CONTINUED:

TOTAL DRUG DIVERSION FEE ORDERED	
TOTAL CIVIL PENALTY ORDERED	
TOTAL DRUG REHAB. TREAT. ED. ORDERED	
TOTAL EXTRADITION ORDERED	
TOTAL FINE AMOUNT ORDERED	
FORENSIC FINE ORDERED	
RESTITUTION ORDERED	
SHERIFF, NCCO ORDERED	
SHERIFF, KENT ORDERED	
SHERIFF, SUSSEX ORDERED	
PUBLIC DEF, FEE ORDERED	50.00
PROSECUTION FEE ORDERED	100.00
VICTIM'S COM ORDERED	
VIDEOPHONE FEE ORDERED	2.00
<hr/> TOTAL	<hr/> 152.00

Social Security  
# 222-64-9809

\*\*APPROVED ORDER\*\*

4

March 18, 2004 16:03